

ORDINANCE NO. 21-04

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 46, ARTICLE IV, POLICE OFFICER'S AND FIREFIGHTER'S RETIREMENT PLAN, DIVISION II, BOARD OF TRUSTEES, SECTION 278, TERMS OF OFFICE; VACANCIES; DIVISION III, BENEFITS AND CONTRIBUTIONS, SECTION 326, COMPLIANCE WITH INTERNAL REVENUE CODE, TO COMPLY WITH CHANGES MADE TO THE INTERNAL REVENUE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West currently has a Police Officer's and Firefighter's Retirement Plan (the "Plan") for the benefit of City police officers and firefighters; and

WHEREAS, the Board of Trustees recommend the extension of trustees' terms of office from two to four years; and

WHEREAS, changes to the Internal Revenue Code happen quickly and frequently. There is a benefit in authorizing the Board to make appropriate changes to the Plan in order to maintain the Plan's tax qualified status; and

WHEREAS; effective January 1, 2020, the Internal Revenue Code was amended by increasing the required minimum distribution age from 70½ to 72; and

WHEREAS; the City Code should be amended to reflect this Internal Revenue Code amendment; and

WHEREAS; the City Commission finds that it is in the best interest of the City and employees to amend the Plan.

NOW, THEREFORE, BE IT ORDAINED by the City of Key West, Florida:

**Section 1:** That section 46-278 of the Code of Ordinances is hereby amended as follows\*:

**Section 46-278. - Terms of office; Vacancies**

(a) The term of office for each trustee shall be ~~two~~ four years. There is no limit to the number of terms a trustee may serve. This subsection shall not operate retroactively to extend any existing member's term.

(b) If a vacancy occurs prior to the expiration of a trustee's term, a replacement trustee shall be chosen in the same manner as the trustee who has left office. A replacement trustee shall serve a full term measured from the date of replacement.

(c) All trustees shall serve until their replacements are selected.

---

\*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

Section 2: That Section 46-326 of the Code of Ordinances is hereby amended to read as follows:

**Section 46-326. - Compliance with Internal Revenue Code.**

(a) It is the intention of the city and the board that the plan remain at all times a qualified plan, as that term is defined under the Internal Revenue Code. In recognition of the changing requirements of plan qualification, the board shall adopt an administrative policy setting forth the required provisions for tax qualification. Such a policy shall be amended by the board as required to maintain continuing compliance with the Internal Revenue Code.

\*\*\*\*

(d) In no event may a member's retirement benefit be delayed beyond the later of April 1 following the calendar year in which the member attains age ~~70½~~ 72, provided the member had not attained age 70½ by December 31, 2019, or April 1 of the year following the calendar year in which the member retires. When a distribution of the participant's entire interest is not made in a lump sum, the distribution will be made in one or more of the

following ways: over the life of the participant; over the life of the participant and designated beneficiary; over a period certain not extending beyond the life expectancy of the participant; or over a period certain not extending beyond the joint life and last survivor expectancy of the participant and a designated beneficiary.

(e) If the distribution has commenced before the participant's death, the remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death. The method of distribution, if the participant dies before distribution is commenced, must satisfy the following requirements:

(1) Any remaining portion of the participant's interest that is not payable to a beneficiary designated by the participant will be distributed within five years after the participant's death.

(2) Any portion of the participant's interest that is payable to a beneficiary designated by the participant will be distributed either: (I) within five years after the participant's death; or (ii) over the life of the beneficiary, or over a period certain not extending beyond the life expectancy of the

beneficiary, commencing not later than the end of the calendar year following the calendar year in which the participant died, or, if a designated beneficiary is the participant's surviving spouse, commencing not later than the end of the calendar year following the calendar year in which the participant would have attained age 72 ~~70~~.

\* \* \* \* \*

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

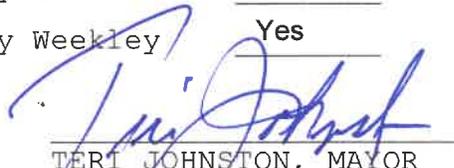
Read and passed on first reading at a regular meeting held this 20th day of January, 2021.

Read and passed on final reading at a regular meeting held this 3rd day of February, 2021.

Authenticated by the presiding officer and Clerk of the Commission on 3rd day of February, 2021.

Filed with the Clerk February 3, 2021.

Mayor Teri Johnston	<u>Yes</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>

  
TERI JOHNSTON, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK